

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSEPH CARVER,

Plaintiff,

v.

HENRY RICHARDS *et al.*,

Defendants,

Case No. C08-5052BHS/JKA

REPORT AND  
RECOMMENDATION

**NOTED FOR:  
April 18, 2008**

This 42 U.S.C. § 1983 Civil Rights has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. This action was filed in January of 2008 (Dkt. # 1). The original proposed complaint contained two plaintiffs acting pro se. These two pro se litigants were attempting to file a class action without a motion to certify a class. Neither plaintiff purported to have standing to raise every issue in the 72 page complaint (Dkt. # 3, proposed complaint). In February the court ordered each defendant to file a separate complaint that raised only issues that plaintiff had standing to raise. Plaintiff Donaghe was ordered to file a separate action and plaintiff Carver was allowed to proceed under this case number (Dkt # 9).

The court order to file an amended complaint gave Mr. Carver until March 15, 2008, to file his amended complaint (Dkt. # 9). A motion for reconsideration was filed and denied, however, the court granted

1 Mr. Carver's motion to proceed *in forma pauperis* in light of the additional financial information provided in  
2 the motion for reconsideration (Dkt # 10 and 11). As of March 21, 2008, no amended complaint has been  
3 filed.

4 Plaintiff has not complied with the court's order to amend. The court recommends the action be  
5 **DISMISSED WITHOUT PREJUDICE** for the reasons stated in the order to amend and for failure to  
6 comply with a court order. (Dkt. # 9).

7 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the  
8 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.  
9 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.  
10 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to  
11 set the matter for consideration on **April 18, 2008**, as noted in the caption.

12  
13 DATED this 21 day of March, 2008.

14  
15 /S/ J. Kelley Arnold  
16 J. Kelley Arnold  
17 United States Magistrate Judge  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28